Supreme Court, U.S.
FILED
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JOSEPH F. SPANIOL, JR.
CLERK

No. 86-515

IN THE

Supreme Court of the United States

OCTOBER TERM, 1986

JUDY'S FOODS, INC., *et al.*,
Petitioners,

v.

A & B FOOD SERVICES CORPORATION, *et al.*,
Respondents.

SUPPLEMENTAL APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETER J. NICKLES *
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APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Case No.: 3-83-0107

A & B FOOD SERVICES CORPORATION, *et al.*

v.

JUDY'S FOOD, INC., *et al.*

JUDGMENT

This action came on for trial, before the Court and a jury, the Honorable Thomas A. Wiseman, Jr., District Judge, presiding and the jury having returned its verdict on January 24, 1985.

At the conclusion of all of the proof the motion for a directed verdict was granted as to the defendants, Charles Martin and Donald E. Nauss. Order announced from the bench adjudging that any liability assessed against Judy's/General Care would be borne by Hospital Corporation of America pursuant to the indemnification provisions (and as required by law) of the merger agreement between Hospital Corporation of America and General Care.

The issues having been duly tried and the jury having duly rendered its verdict, it is Ordered and adjudged that the plaintiff, A & B Food Services, receive compensatory damages in the amount of $20,000.00, plaintiff, MC Management #4, receive compensatory

damages in the amount of $14,000.00 and the plaintiff, MC Management #7, receive compensatory damages in the amount of $10,000.00, against the defendants, Judy's/General Care, Marvin Friedman and Joel Jordan. As to punitive damages the jury returned a verdict against the defendants Judy's/General Care, in the amount of $50,000.00, against Marvin Friedman, in the amount of $500,000.00, and against Joel Gordon, in the amount of $300,000.00; to be divided among the plaintiffs as follows: A & B Food Services, in the amount of $100,000.00, MC Management #4, in the amount of $375,000.00 and MC Management #7, in the amount of $375,000.00.

Furthermore, IT IS ORDERED that upon the jury's verdict for the defendant Anthony Mulle, the plaintiffs case is dismissed as to this defendant.

At the direction of the Court the jury returned to consider the question of whether liability for compensatory and punitive damages was based exclusively on the theory of promissory fraud. The jury returned and reported that the verdict was based on a finding of concealment and constructive fraud, with no liability based on promissory fraud.

Thereupon the jury was polled and each juror affirmed the verdict as being his or her individual verdict.

Dated at Nashville, Tennessee, this the 29th day of January, 1985.

CLERK, U.S. DISTRICT COURT

/s/ Joyce J. Merritt
JOYCE J. MERRITT
Courtroom Deputy

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

No. 3-83-0107

A & B FOOD SERVICES CORP, *et al.*

v.

JUDY'S FOOD, INC., *et al.*

ORDER

In accordance with the accompanying Memorandum, the plaintiffs' motion to amend and supplement the judgment of the Court is denied. The Court grants the defendant's motion to amend and supplement the judgment.

/s/ Thomas A. Wiseman, Jr.
THOMAS A. WISEMAN, JR.
Chief Judge

Received for Entry 3:30 p.m., May 20, 1985.

Clerk

By /s/ [Illegible]
Deputy Clerk

APPENDIX E

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Case No. 3-83-0107

A & B FOOD SERVICES CORPORATION, *et al.*

v.

JUDY'S FOOD, INC., *et al.*

AMENDED AND SUPPLEMENTAL JUDGMENT

This action came on for trial, before the Court and a jury, the Honorable Thomas A. Wiseman, Jr., District Judge, presiding and the jury having duly returned its verdict on January 24, 1985.

At the conclusion of the plaintiffs' proof, defendants' motion for a directed verdict was granted as to all the defendants, based upon so much of the original Complaint as charged a conspiracy, and plaintiffs' claim of conspiracy was ordered dismissed. At the conclusion of all the proof, the motion for a directed verdict was granted as to the defendants, Charles Martin, Donald E. Nauss and Hospital Corporation of America; the Court announced from the bench, however, that any liability adjudged against Judy's/General Care would be borne by Hospital Corporation of American pursuant to the indemnification provision (and as required by law) of the merger agreement between Hospital Corporation of America and General Care.

The issues having been duly tried and the jury having duly rendered its verdict, it is Ordered and Adjudged that the plaintiff, A & B Food Services, receive compensatory damages in the amount of $20,000.00, plaintiff, MC Management #4, receive compensatory damages in the amount of $14,000.00, and the plaintiff, MC Man-

agement #7, receive compensatory damages in the amount of $10,000.00, against the defendants, Judy's/General Care, Marvin Friedman and Joel Gordon. As to punitive damages, the jury returned a verdict against the defendants, Judy's/General Care, in the amount of $50,000.00, against Marvin Friedman, in the amount of $500,000.00, and against Joel Gordon, in the amount of $300,000.00; to be divided among the plaintiffs as follows: A & B Food Services, in the amount of $100,000.00, MC Management #4, in the amount of $375,000.00, and MC Management #7, in the amount of $375,000.00.

Furthermore, IT IS ORDERED that upon the jury's verdict for the defendant, Anthony Mulle, the plaintiffs' case is dismissed as to this defendant.

At the direction of the Court, the jury returned to consider the question of whether liability for compensatory and punitive damages was based exclusively on the theory of promissory fraud. The jury returned and reported that the verdict was based on a finding of concealment and constructive fraud, with no liability based on promissory fraud.

Thereupon the jury was polled, and each juror affirmed the verdict as being his or her individual verdict.

Dated at Nashville, Tennessee, this —— day of February, 1985.

United States District Judge